

Decision 02-12-044 December 17, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison
Company (U 338-E) for Authority to Institute a
Rate Stabilization Plan with a Rate Increase and
End of Rate Freeze Tariffs.

Application 00-11-038
(Filed November 16, 2000)

Emergency Application of Pacific Gas and
Electric Company to Adopt a Rate Stabilization
Plan. (U 39 E)

Application 00-11-056
(Filed November 22, 2000)

Petition of The Utility Reform Network for
Modification of Resolution E-3527.

Application 00-10-028
(Filed October 17, 2000)

**OPINION DENYING
GREENLINING/LATINO ISSUES FORUM
PETITION TO MODIFY DECISION (D.) 02-09-003**

Summary

This decision denies Greenling/Latino Issues Forum's (GL/LIF) Petition to
Modify Decision 02-09-003 (Petition).

Background

On September 12, 2002, GL/LIF filed a Petition.¹ GL/LIF's Petition requests that the Commission modify D.02-09-003 to include in GL/LIF's award a 1.25 multiplier applied to hourly attorney rates. GL/LIF argues that as a result of its contribution to D.01-01-018 and D.01-03-082, ratepayers it represents secured \$1.5 billion in benefits. GL/LIF calculates annual benefits of \$488 million, consisting of \$122 million due to a 50% increase in California Alternate Rates for Energy (CARE) recipients, \$137 million due to exemption from the Emergency Procurement Surcharge, \$229 million assuming 90% of eligible customers will be enrolled in CARE and an increase in the CARE discount from 15% to 20% (this value is included in calculating the above amounts). GL/LIF assumes that this savings over three years amounts to about \$1.5 billion. GL/LIF contends that its request to apply a multiplier to its hourly attorney rates is modest and justified, given this substantial savings to the ratepayers represented by GL/LIF. Furthermore, GL/LIF cites a compensation award in D.94-09-022 to The Utility Reform Network (TURN) that included a 1.35 multiplier when ratepayer benefits involved in that decision were about \$34 million, plus interest, and \$15 million in penalties.

Discussion

Rule 47(b) states that: "A Petition for Modification must concisely state the justification for the requested relief and must propose specific wording to carry out all requested modifications to the decision. Any factual allegations must be supported with specific citations to the record in the proceeding or to matters

¹ Although not referenced in the Petition, the Petition is filed under Rule 47 of the Commission's Rules of Practice and Procedure.

that may be officially noticed (Rule 73). Allegations of new or changed facts must be supported by an appropriate declaration or affidavit.” In its Petition, GL/LIF argues that a 1.25 multiplier is justified as a result of its contribution measured by the amounts of dollars saved for the ratepayers GL/LIF represents. However, GL/LIF has not provided any new facts or information not already available in the underlying documents leading to D.01-01-018 and D.01-03-082, nor are there any changed facts. Furthermore, we considered the amount of dollars involved in the exemption of CARE customers in the section on Substantial Benefits in D.02-09-003, where we discussed GL/LIF’s participation in D.01-01-018 and D.01-03-082. As a matter of correction, we point out that GL/LIF’s Petition uses as one justification the increase in the CARE discount. However, this issue was resolved in D.01-06-010,² not D.01-01-018 or D.01-03-082.

As we stated in D.02-09-003, our award of hourly rate multipliers depends on many factors.³ The amount of dollars involved in the issues litigated by the intervenor is only one factor in considering whether to award an hourly multiplier, as is apparent in D.94-09-022, the decision cited by GL/LIF awarding a 1.35 multiplier to TURN.⁴ In D.94-09-022, addressing the issue of an “enhancement,” an earlier description of an hourly multiplier, we stated “this proceeding presented a litigation risk because of the complexity of the modeling and quantitative estimates involved and the concomitant financial commitments

² GL/LIF has filed a separate compensation request for its contribution to D.01-06-010.

³ See D.02-09-003, p. 14.

⁴ D.94-09-022 is TURN’s compensation decision in a complaint filed by TURN against Pacific Bell Company (Pacific Bell), Case 91-03-006. TURN requested a multiplier of 2.00.

required of TURN.”⁵ Furthermore, this was a case spanning three years and as noted by TURN, the TURN attorney demonstrated commendable efficiency including cross-examining witnesses without benefit of technical expertise, or legal assistance.⁶ Thus, the factors leading to our use of a multiplier in D.94-09-022 are not present here.

We reiterate that we recognized GL/LIF’s successful participation in this proceeding by awarding compensation for all of the almost 950 hours claimed without reductions for issues on which GL/LIF did not prevail. As we stated in D.02-09-003, (p.13), “If we did not set and maintain high standards, many attorney fees in compensation requests would include such multipliers and we would no longer be adopting attorney fees based on market rates for comparable training as required by Section 1804.” We are not persuaded by GL/LIF’s arguments, and its Petition is accordingly denied.

Public Review and Comment

Pursuant to Rule 77.7 (f)(6), the otherwise applicable 30-day period for public review and comment of this compensation decision is being waived.

Assignment of Proceeding

Loretta M. Lynch is the Assigned Commissioner and Bruce M. DeBerry is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. GL/LIF has not provided new information or facts, or changed facts in the underlying documents leading to D.01-01-018 and D.01-03-082.

⁵ D.94-09-022, *mimeo.*, p. 9.

⁶ D.94-09-022, *mimeo.*, p. 9.

2. An increase in the CARE discount was resolved in D.01-06-010.
3. An award of an hourly rate multiplier depends on many factors, for which, the amount of dollars is only one factor.
4. D.02-09-003 considered the amount of dollars involved in exempting CARE customers from the electric rate increases in D.01-01-018 and D.01-03-082; an issue on which GL/LIF participated and prevailed.
5. TURN's participation in Case 91-03-006 leading to D.94-09-022 involved a litigation risk because of the complexity of the modeling and quantitative estimates and financial commitments required of TURN.

Conclusions of Law

1. No factual allegations were filed by GL/LIF in its Petition.
2. No declarations or affidavits asserting new or changed facts were filed by GL/LIF in its Petition.
3. The Petition of D.02-09-003 should be denied.

O R D E R

IT IS ORDERED that the Petition for Modification of Decision 02-09-003 filed by Greenlining/Latino Issues Forum is denied.

This order is effective today.

Dated December 17, 2002, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
CARL W. WOOD
GEOFFREY F. BROWN
MICHAEL R. PEEVEY
Commissioners